

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REQUEST FOR APPOINTMENT OF )  
COMMISSIONERS FOR KENTUCKY ) CASE NO. 2012-00173  
TURNPIKE WATER DISTRICT )

O R D E R

Bullitt County Judge/Executive Melanie J. Roberts has advised the Commission in writing of the existence of three vacancies on the Kentucky Turnpike Water District's ("Kentucky Turnpike") Board of Commissioners due to the expiration of the previous occupants' terms. Judge/Executive Roberts reports that no vacancies on Kentucky Turnpike's Board of Commissioners have been filled since Louisville Water Company's acquisition of Kentucky Turnpike's assets in 2000.<sup>1</sup> These vacancies, Judge/Executive Roberts states, must be filled as the first step to dissolving the water district.

KRS 74.020(4), which addresses the appointment of members to the boards of commissioners of water districts, states:

Vacancies shall be filled by the same appointing authority which is empowered to make the original appointment. Vacancies resulting from cause other than expiration of the term shall be filled for the unexpired term only. Notwithstanding the provisions of KRS 67.710, a vacancy resulting from the expiration of a term shall be filled by the Public Service Commission if, within ninety (90) days following the expiration of the term, the vacancy has not been filled by the appropriate county judge/executive with approval of the fiscal court.

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<sup>1</sup> See Case No. 2000-306, *The Application of the Louisville Water Company for Approval of Merger and Acquisition of Ownership of Kentucky Turnpike Water District* (Ky. PSC Sept. 6, 2000).

As the positions have been vacant for more than 90 days, the Commission has the statutory duty and the exclusive authority to fill them. While a county judge/executive and a county fiscal court may reach agreement on the vacant position, they lack authority to fill the vacancy once it has remained unfilled for more than 90 days. Any action on their part to appoint and approve a candidate at that time has limited legal effect and constitutes only a recommendation to the Commission.<sup>2</sup>

The Commission recognizes that deference should be accorded to local elected officials when filling vacancies on a water district's board of commissioners. We have previously declared:

While the Commission has exclusive authority to fill vacancies that exist for 90 days or more, we will defer to the local elected officials in those instances where the local appointing and approval authorities have reached agreement on a candidate. Absent unusual circumstances that raise clear concerns about an agreed candidate's qualifications, such deference is appropriate because local officials generally have a better understanding of the candidates' qualifications and of the water district's needs and because these officials are directly accountable to the water district's customers through the ballot box.<sup>3</sup>

Accordingly, the Commission finds that a proceeding should be initiated to fill the vacancies. In view of Kentucky Turnpike's present condition and the purpose for which the appointments have been sought, we will limit the scope of our review to determining whether the persons who Judge/Executive Roberts has nominated for the positions meet the constitutional and statutory requirements for the office of water district commissioner.

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<sup>2</sup> See Case No. 2008-00395, *Request to Fill Existing Vacancies on the Board of Commissioners of Letcher County Water and Sewer District* (Ky. PSC Jan. 28, 2009).

<sup>3</sup> Case No. 2007-00493, *Request for Assistance in the Appointment of Breathitt County Water District Commissioners* (Ky. PSC Mar. 20, 2008) at 4-5.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated to fill the existing vacancies on Kentucky Turnpike's Board of Commissioners.

2. Kentucky Turnpike, Bullitt County Judge/Executive Roberts, Dan H. Thibodeaux, Larry Hatfield, and George H. Miller are made parties to this proceeding.

3. Any party filing documents with the Commission shall serve a copy of those documents upon all other parties.

4. Service of any document or pleading shall be made in accordance with 807 KAR 5:001, Section 3(7).

5. Dan H. Thibodeaux, Larry Hatfield, and George H. Miller shall each file with the Commission the original and two copies of the information listed in Appendix A. A person's failure to file the requested information in a timely manner shall be considered as notice that he does not wish to be considered for appointment to Kentucky Turnpike's Board of Commissioners.

6. Bullitt County Judge/Executive Roberts shall file with the Commission the original and two copies of the information listed in Appendix B.

7. a. The information requested herein is due on or before July 30, 2012. Responses to requests for information shall be appropriately bound, tabbed and indexed and shall include the name of the witness responsible for responding to the questions related to the information provided, with copies to all parties of record and ten copies to the Commission.

b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or

person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. A party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any request to which a party fails or refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

e. Careful attention shall be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations.

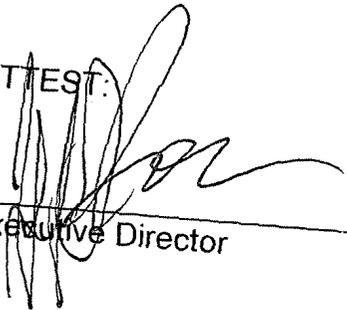
8. The record of Case No. 2000-306 is incorporated by reference into the record of this proceeding.

9. The Executive Director shall give notice of this proceeding to the Bullitt County Fiscal Court by serving a copy of this Order upon it.

By the Commission

ENTERED <sup>A</sup>  
JUL 11 2012  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2012-00173

## APPENDIX A

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2012-00173 DATED JUL 11 2012

1. Provide your resume or curriculum vitae.
2. State your date of birth.
3. State your current street address and your current mailing address (if different from your street address).
4. State whether you have ever been convicted of violating any law (other than minor traffic offenses). If yes, list the conviction, the court that adjudged the sentence, and date and place.
5. State whether you reside in Kentucky Turnpike Water District's territory.
6. State whether you have fought a duel with deadly weapons or sent or accepted a challenge to fight a duel with deadly weapons, acted as second in carrying a challenge, or aided or assisted any person doing so.
7. Describe your educational background.
8. List all positions that you currently hold with any local, state, or federal governmental entity.
9. State whether you previously served on Kentucky Turnpike Water District's Board of Commissioners or were an employee of Kentucky Turnpike Water District.

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2012-00173 DATED JUL 11 2012

1.
  - a. Provide a map of Kentucky Turnpike Water District's territory.
  - b. Provide the ordinances and resolutions of the Bullitt County Fiscal Court that establish Kentucky Turnpike Water District's territorial boundaries.
  - c. Provide all orders of the Bullitt County Judge/Executive that address Kentucky Turnpike Water District's territorial boundaries.
2. Provide all documents of the Bullitt County Fiscal Court that address the proposed appointments to Kentucky Turnpike Water District's Board of Commissioners.

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